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JACQUELYN A. SUÁREZ
Commissioner

FINAL DECISION

July 29, 2025 Government Records Council Meeting

Charles Urban
Complainant

Complaint No. 2023-181

v.

North Hunterdon-Voorhees
Regional High School District (Hunterdon)
Custodian of Record

At the July 29, 2025, public meeting, the Government Records Council (“Council”) considered the July 22, 2025, Findings and Recommendations of the Executive Director and all related documentation submitted by the parties. The Council voted unanimously to adopt the entirety of said findings and recommendations. The Council, therefore, finds that:

1. The portion of the complaint related to the eight (8) OPRA requests dated between August 24, 2022 and April 5, 2023, should be dismissed because it was filed out of time. N.J.A.C. 5:105-2.1(a). Additionally, the Complainant did not provide, nor does the record evidence show that good cause exists to accept this portion of the complaint as within time.
2. The Custodian has borne her burden of proof that she timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. Further, the Custodian bore her burden of proof that she responded in writing within the prescribed time frame. As such, there was no “deemed” denial. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Inzelbuch, Esq. v. Office of Admin. Law, GRC Complaint No. 2017-53 (December 2018).

This is the final administrative determination in this matter. Any further review should be pursued in the Appellate Division of the Superior Court of New Jersey within forty-five (45) days. Information about the appeals process can be obtained from the Appellate Division Clerk’s Office, Hughes Justice Complex, 25 W. Market St., PO Box 006, Trenton, NJ 08625-0006. Proper service of submissions pursuant to any appeal is to be made to the Council in care of the Executive Director at the State of New Jersey Government Records Council, 101 South Broad Street, PO Box 819, Trenton, NJ 08625-0819.

Final Decision Rendered by the
Government Records Council
On The 29th Day of July 2025

John A. Alexy, Chair
Government Records Council

I attest the foregoing is a true and accurate record of the Government Records Council.

Steven Ritardi, Esq., Secretary
Government Records Council

Decision Distribution Date: July 31, 2025

**STATE OF NEW JERSEY
GOVERNMENT RECORDS COUNCIL**

**Findings and Recommendations of the Executive Director
July 29, 2025 Council Meeting**

**Charles Urban¹
Complainant**

GRC Complaint No. 2023-181

v.

**North Hunterdon-Voorhees
Regional High School District (Hunterdon)²
Custodial Agency**

Records Relevant to Complaint:

August 24, 2022 OPRA request: Electronic copies via e-mail of the following regarding Clinton Woods Development and sewer line installation:

1. The request from Clinton Woods to tie into North Hunterdon Regional High School's ("NHRHS") pump station.
2. The request from the Township of Clinton ("Township") and/or Clinton Township Sewer Authority ("CTSA").
3. The approval of the requests including any conditions imposed on the developer, Township, or CTSA.

October 4, 2022 OPRA request: Electronic copies via e-mail of the application "for exemption of the sewer ban by [the New Jersey Department of Environmental Protection]."

October 5, 2022 OPRA request: Electronic copies via e-mail of all Hunterdon Regional High School District ("District") minutes from 1993, 1994, 2002, and 2003.

November 8, 2022 OPRA request: Electronic copies of the agreement between CSTA and NHRHS outlining how sewer charges are calculated.

November 15, 2022 OPRA request: Electronic copies via e-mail of the letter John Rolak sent to the Superintendent referred to in the CSTA March 4, 2004 meeting minutes.

November 29, 2022 OPRA request: Electronic copies via e-mail of the letter Mr. Rolak sent to the Superintendent referred to in the CSTA July 2, 2011 meeting minutes.

¹ No legal representation listed on record.

² Represented by Brandon R. Crooker, Esq., of Comegno Law Group, P.C. (Moorestown, NJ)
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December 20, 2022 OPRA request: Electronic copies of the letter responding to George Watt's letter to NHRHS attorneys and "Vo-Tech" regarding the capacity issue referred to in the CSTA July 7, 2022 meeting minutes.

April 5, 2023 OPRA request: Electronic copies of "any document contradicting" that the maximum capacity of NHRHS is 2,362 as set forth in a May 3, 2002 letter.

June 13, 2023 OPRA request: Electronic copies via e-mail of the Agreement with Polytech to tie into NHRHS's existing sewer lines.

June 20, 2023 OPRA requests (two (2) OPRA requests):

1. Electronic copies via e-mail of "a letter by [Mr.] Watts" between February 5, 2004 and March 3, 2004 regarding "review of flow data and research for allocation for Vorhees and North Hunterdon high schools."
2. Electronic copy via e-mail of Mr. Watts letter to the Clinton Township Board of Education referenced in the CTSA November 6, 2003 meeting minutes regarding "the status of the capacity of 50,000 gallons of unused capacity from Beaver Brook."

June 21, 2023 OPRA request: Electronic copies via e-mail of "the dedication or any other instrument" transferring the title for a sanitary sewer easement at Block 79, Lot 7, in the Township (commonly known as Beaverbrook Concourse) to CTSA as referred to in an attached document.

July 6, 2023 OPRA request: Electronic copies via e-mail of "the number of students approved in the original design of the construction of North Hunterdon High School."

July 11, 2023 OPRA requests (two (2) OPRA requests):

1. Electronic copies via e-mail of the student enrollment from 1990 through 1999.
2. Electronic copies via e-mail of "the number of faculty" from 1992 through 1995.

July 12, 2023 OPRA request: Electronic copy via e-mail of Mr. Watts letter to the Clinton Township Board of Education referenced in the CTSA November 6, 2003 meeting minutes regarding "the status of the capacity of 50,000 gallons of unused capacity from Beaver Brook."

Custodian of Record: Kathryn Blew

Request Received by Custodian: August 24, 2023

Response Made by Custodian: September 1, 2023

GRC Complaint Received: August 3, 2023

Background³

Request:

On various dates between August 24, 2022 and July 12, 2023, the Complainant submitted sixteen (16) Open Public Records Act (“OPRA”) requests to the Custodian seeking the above-mentioned records. On July 26, 2023, the Complainant e-mailed the Custodian stating that the seven (7) business time frame to respond to his July 12, 2023 OPRA request expired. The Complainant stated that he was attaching all OPRA requests the Custodian failed to address and wanted an immediate response to avoid a complaint.

Denial of Access Complaint:

On August 3, 2023, the Complainant filed a Denial of Access Complaint with the Government Records Council (“GRC”). The Complainant asserted that the Custodian failed to respond at all to his sixteen (16) OPRA requests.

Response:

On September 1, 2023, the sixth (6th) business day after receipt of all sixteen (16) OPRA requests, the Custodian responded in writing stating that the District became aware of the Complainant’s OPRA requests through receipt of the Denial of Access Complaint from the GRC on August 24, 2023.⁴ The Custodian stated that the District was unaware of the OPRA requests until that date because the Complainant’s e-mails were “filtered out as spam” by the District’s e-mail system and thus never delivered. The Custodian stated that because the requests were received on August 24, 2023, the seven (7) business day response time frame ended on September 5, 2023. The Custodian stated that due to size of the total universe of OPRA requests, the District required an extension until September 19, 2023 to respond to all OPRA requests.

Statement of Information:

On September 8, 2023, the Custodian filed a Statement of Information (“SOI”) attaching a legal certification from Coordinator of Technology Guillermo Vargas-Dellacasa. The Custodian certified that she did not receive the Complainant’s sixteen (16) OPRA requests until August 24, 2023. The Custodian affirmed that the District’s e-mail system filtered each of the Complainant’s OPRA requests as spam and thus she never received them. See Vargas-Dellacasa Cert. § 2. The Custodian further averred that a prior e-mail address used by the Complainant was also filtered as spam “as a security measure.” See Vargas-Dellacasa Cert. § 3. The Custodian certified that she responded in writing on September 1, 2023 extending the response time frame through September 19, 2023. The Custodian asserted that based on this response, this Denial of Access Complaint is premature; yet, the Complainant has not withdrawn it.

³ The parties may have submitted additional correspondence or made additional statements/assertions in the submissions identified herein. However, the Council includes in the Findings and Recommendations of the Executive Director the submissions necessary and relevant for the adjudication of this complaint.

⁴ On that date, the GRC sent the Custodian via e-mail a Statement of Information request letter and attached a copy of the Denial of Access Complaint.

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The Custodian first argued that the portion of the complaint related to the first eight (8) OPRA requests was filed out of time based on the GRC's regulations at N.J.A.C. 5:105-2.1(a). The Custodian argued that due to this procedural defect, this portion of the complaint should be dismissed.

The Custodian next asserted that no unlawful denial of access occurred here because the District never received the subject OPRA requests. The Custodian argued that upon receipt of the Denial of Access Complaint on August 24, 2023, she began processing the requests and extended the response time frame through September 19, 2023, which had not passed as of the filing of this SOI. The Custodian contended that the Complainant's continuation of this complaint in the face of these facts is "misguided."⁵

The Custodian finally argued that upon information and belief, the Complainant is a managing member of an entity suing the District and others in County Club Drive, Assoc., LLC v. Clinton Twp. Sewerage Auth., et. al, Docket No. 3:19-cv-20525. The Custodian contended that it appeared the Complainant was attempting to utilize OPRA to circumvent discovery in that case, which the court in MAG Entm't, LLC v. Div. of ABC, 375 N.J. Super. 534 (App. Div. 2005) previously held was a misuse of OPRA. The Custodian also cited Constantine v. Twp. of Bass River, 406 N.J. Super. 305, 324 (App. Div. 2009) in support of this position.

Supplemental Response:

On September 18, 2023, the Custodian responded to the Complainant's sixteen (16) OPRA requests. The Custodian provided a response to each OPRA request providing various bases for denial, including that no records existed, and disclosing seventy-one pages of lease agreements in response to the June 13, 2023 OPRA request.

Analysis

Statute of Limitations

The GRC's regulations provide that:

Any requestor who is denied access, in whole or in part, to a government record by a custodian, at the option of the requestor, may file a complaint with the Council pursuant to N.J.S.A. 47:1A-6. *Such filing shall be made within 60-calendar days or, if the last day of the period is a Saturday, Sunday, or legal holiday, within the next business day, pursuant to N.J.A.C. 1:1-1.4, after the requestor receives a response from the custodian that grants or denies access or, if the custodian does not respond within seven business days of the request, within 60-calendar days following the expiration of such seven-business-day period, whichever is later, unless accompanied by a motion to file within time, showing good cause.*

⁵ The Custodian stated that the District is a prevailing party and "reserves the right to" submit an application to the GRC for prevailing party attorney's fees. However, OPRA's prevailing party provision only applies to complainants represented by an attorney. N.J.S.A. 47:1A-6.

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[N.J.A.C. 5:105-2.1(a) (emphasis added).]⁶

In the instant matter, the Complainant submitted eight (8) OPRA requests between August 24, 2022 and April 5, 2023 to which the Custodian did not proffer a response. This complaint followed on August 3, 2023, wherein the Complainant confirmed that he did not receive a response to any of the eight (8) OPRA requests. In the SOI, the Custodian argued that this portion of the complaint should be dismissed as out of time.

On this issue, the GRC finds that the portion of the complaint related to those eight (8) OPRA requests was filed out of time. The applicable regulatory language contemplates the calculation of the statute of limitations either from the denial date or, if the custodian fails to respond, the expiration of the response time frame. N.J.A.C. 5:105-2.1(a). Here, the statute of limitations began tolling on the date that each OPRA request was considered “deemed” denied. The Complainant had sixty (60) calendar days from the “deemed” denial dates to file a Denial of Access Complaint and failed to do so until August 3, 2023, or between eleven (11) months and ninety-three (93) calendar days thereafter.⁷

At the time this complaint was filed, the statute of limitations had clearly expired. The fact that the Complainant included eight (8) more recently submitted OPRA requests in this complaint is of no moment: their inclusion does not restart the statute of limitations for the eight (8) earlier OPRA requests. Further, the Complainant did not include a motion arguing why this portion of the complaint should be accepted as within time.

Therefore, the portion of the complaint related to the eight (8) OPRA requests dated between August 24, 2022 and April 5, 2023, should be dismissed because it was filed out of time. N.J.A.C. 5:105-2.1(a). Additionally, the Complainant did not provide, nor does the record evidence show that good cause exists to accept this portion of the complaint as within time.

Timeliness

OPRA mandates that a custodian must either grant or deny access to requested records within seven (7) business days from receipt of said request. N.J.S.A. 47:1A-5(i). A custodian’s failure to respond within the required seven (7) business days results in a “deemed” denial. Id. Further, a custodian’s response, either granting or denying access, must be in writing pursuant to N.J.S.A. 47:1A-5(g).⁸ Thus, a custodian’s failure to respond in writing to a complainant’s OPRA request either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days results in a “deemed” denial of the complainant’s OPRA request pursuant to N.J.S.A. 47:1A-5(g), N.J.S.A. 47:1A-5(i), and Kelley v. Twp. of Rockaway, GRC Complaint No. 2007-11 (Interim Order dated October 31, 2007).

⁶ The GRC notes that P.L. 2024, c. 16, effective September 3, 2024, codified a forty-five (45)-calendar day statute of limitations for all OPRA actions filed either with the New Jersey Superior Court or the GRC. N.J.S.A. 47:1A-6.

⁷ The Complainant did not attempt to file a complaint until August 22, 2023, but his complaint was returned as incomplete and subsequently faxed again on August 24, 2023. The GRC officially received the complaint, absent a motion to file within time, for intake on August 28, 2023.

⁸ A custodian’s written response either granting access, denying access, seeking clarification or requesting an extension of time within the statutorily mandated seven (7) business days, even if said response is not on the agency’s official OPRA request form, is a valid response pursuant to OPRA.

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In Inzelbuch, Esq. v. Office of Admin. Law, GRC Complaint No. 2017-53 (December 2018), the complainant argued that the custodian failed to respond to the subject OPRA request. Following the filing of the complaint, the custodian e-mailed the complainant on advising that he had just located the OPRA request in his “junk mail” but would respond accordingly. In the SOI, the custodian certified that he did not become aware of the OPRA request until after the filing of this complaint, which he discovered in his spam folder. Upon review, the Council found that no “deemed” denial occurred, reasoning that:

[T]he Custodian explained from the outset of the complaint that the request went into his junk mail and that he did not locate it until after the filing of the complaint. The Custodian also certified that he never received the faxed request . . . it is reasonable that the Custodian would not have received the subject OPRA request because he was not regularly monitoring a junk mail folder. Further, the GRC finds it reasonable that the Custodian may not have considered checking his junk mail to see if any e-mails were erroneously directed there within the seven (7) business day time frame. Ultimately, the facts here support that the Custodian physically received the request on April 4, 2017 when alerted to it after receipt of this complaint. The facts further support that the Custodian took the proper steps to respond to it once received; thus, no “deemed” denial of access occurred here.

[Id. at 3-4.]

Here, the Complainant submitted eight (8) OPRA requests to the Custodian via e-mail between June 13, 2023, and July 12, 2023. This complaint followed and, in the SOI, the Custodian certified that she never received any of the requests because District’s e-mail system filtered them out as spam. The Custodian included a legal certification from Mr. Vargas-Dellacasa supporting her certified statement. The Custodian also certified that once she became aware of the OPRA requests on August 24, 2023, she responded on September 1, 2023, extending the response time frame through September 19, 2023. The Custodian subsequently responded to each of the relevant OPRA requests on September 18, 2023.

The facts of this complaint are directly on point with Inzelbuch, Esq., GRC 2017-53. Specifically, like in the preceding complaint, the Custodian certified that she did not receive the Complainant’s eight (8) OPRA requests until August 24, 2023. Thereafter, the Custodian responded in writing within seven (7) business days explaining the receipt issue and extending the response time frame. The Custodian subsequently certified in the SOI that all requests were filtered out as spam. The Custodian ultimately responded in full to all eight (8) OPRA requests on September 18, 2023. It thus follows that a conclusion consistent with Inzelbuch, Esq., is appropriate here.

Therefore, the Custodian has borne her burden of proof that she timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. Further, the Custodian bore her burden of proof that she responded in writing within the prescribed time frame. As such, there was no “deemed” denial. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Inzelbuch, Esq., GRC 2017-53.

Finally, and as stated in Inzelbuch, Esq.: “best practices would dictate that a custodian should take steps to ensure e-mailed OPRA request were received, up to and including a periodic check of all e-mail inboxes. However, as applied to the facts here, a custodian’s failure to periodically check a junk mail folder for valid OPRA requests does not necessarily correlate to an automatic ‘deemed’ denial of access.”

Conclusions and Recommendations

The Executive Director respectfully recommends the Council find that:

1. The portion of the complaint related to the eight (8) OPRA requests dated between August 24, 2022 and April 5, 2023, should be dismissed because it was filed out of time. N.J.A.C. 5:105-2.1(a). Additionally, the Complainant did not provide, nor does the record evidence show that good cause exists to accept this portion of the complaint as within time.
2. The Custodian has borne her burden of proof that she timely responded to the Complainant’s OPRA request. N.J.S.A. 47:1A-6. Further, the Custodian bore her burden of proof that she responded in writing within the prescribed time frame. As such, there was no “deemed” denial. N.J.S.A. 47:1A-5(g); N.J.S.A. 47:1A-5(i); Inzelbuch, Esq. v. Office of Admin. Law, GRC Complaint No. 2017-53 (December 2018).

Prepared By: Frank F. Caruso
Executive Director

July 22, 2025